



CITY OF SUNNYVALE REPORT PLANNING COMMISSION

February 14, 2005

SUBJECT: 2004-0166 – City of Sunnyvale Study Issue: To consider modifications to the height and story limit within the R-3 (Medium Density Residential) Zoning District.

REPORT IN BRIEF

This purpose of this Study Issue is to analyze potential issues associated with increasing the maximum building height and number of stories allowed in the R-3 Zoning District. The allowed density of 24 dwelling units per acre in the R-3 zoning district would not change.

Staff has determined that a density of 18-24 dwelling units per acre is difficult to accomplish within the current requirements of the R-3 zoning district. The addition of the PD Planning District by the applicant has been required to allow a deviation from building height and story requirements. Special Development Permits are frequently approved allowing increases in height and number of stories in order to meet the density allowed in the R-3 Zone.

Staff is recommending a modification to Municipal Code Sections 19.32.020 to allow 40' height and 3 stories where 30' height and 2 stories are currently allowed. See Attachment B.

BACKGROUND

Through the Planned Development Combining District, Special Development Permits are frequently approved allowing 3-stories and heights exceeding 30' in the R-3 Zoning District. The desire for ownership housing has encouraged townhouse style development which frequently includes proposals for 2 and 3-story homes with garages on the lowest level and building heights exceeding 30'. Although apartment development is not active currently, it has been noted in the past that the density bonus cannot be achieved without some portion of the site utilizing 3 stories. Based on changes in desirable dwelling unit sizes, the provision of 2-car garages, and changes in accessibility requirements, unit sizes have increased since the adoption of the 30-foot height standard over 40 years ago. Staff has determined that a density of 18-24 dwelling units per acre is difficult (but not impossible) to achieve within the limits of a 2-story structure that is 30 feet or less. Most R-3 developments reviewed by the City in

the past 20 years have required the Planned Development (PD) combining district and a Special Development Permit to allow a deviation for building height and story limit.

EXISTING POLICY

Building Height and Number of Stories

The height and story regulations for the R-3 Zoning District were established in 1963, and have not been changed since that time:

- Sunnyvale Municipal Code (SMC) Section 19.32.020 states that the maximum building height in an R-3 Zoning District is **30 feet**, with a maximum of **2 stories**.

Current maximum heights and stories for all residential zoning districts are as follows:

Single-family zones: R-0, R-1, R-2 2 stories or 30 feet in height

Multiple-family zones: R-3 2 stories or 30 feet in height

 R-4 and R-5 4 stories or 55 feet in height.

Building Heights – Distance from the Property Line

(Hereafter referred to as the “75’ Rule”)

SMC Section 19.32.040 states:

The height of buildings constructed or erected in any multiple family residential, commercial or industrial zoning district within seventy-five feet of the property line of property in a single-family residence zoning district shall not exceed twenty feet in the event existing buildings on the adjacent lot are one story or thirty feet if the existing buildings are two story or the lot is undeveloped.

Modifying the “75’ Rule” is beyond the scope of this Study Issue because it applies to all multi-family zoning districts (not just R-3), in addition to commercial and industrial zoning districts.

Legislative Management Element

Policy 7.3B.3: Prepare and update ordinances to reflect the current community issues and concerns in compliance with federal and state laws.

Action 7.3B.3b: Consider changes to ordinance to reflect changes in community standards and state and federal laws.

A more complete list of General Plan goals and policies can be found on pages 8 and 9 of this staff report.

DISCUSSION

Four topics are covered in this section:

1. Height comparisons of R-3 (or similar) Zoning Districts in surrounding and similar communities.
2. Height and number of stories for approved, new construction R-3 projects in recent years.
3. Possible alternatives to the existing height and story requirements in R-3 Zoning Districts.
4. Analysis of various alternatives to the City's current R-3 Zoning District height and number of stories requirements.

1) Height Comparison, R-3 Zoning Districts, Surrounding Communities

City	Height (ft)	Stories	Density (unit/acre)
<i>Santa Clara</i>	25	2	25
<i>Saratoga</i>	30	2	14 (highest)
<i>Los Altos</i>	30	2	24
<i>Sunnyvale</i>	30 ¹	2	24
<i>Cupertino</i>	30	2	1 ac: 20 un/ac, then increases with lot size.
<i>Los Gatos</i>	35	No story limit	20 (highest)
<i>Palo Alto</i>	35	No story limit	16-30 (dep. on lot size)
<i>Campbell</i>	40	3	21 – 27 (dep. on lot size)
<i>San Jose</i>	45	3	25
<i>Mountain View</i> ²	45 to roof peak, and 36 to top of wall plate (multi-family)	No story limitation	13 – 33 du/ac (less dense for lots < 1 acre)
<i>Fremont</i>	52 ³	No story limit	8 – 70

- 1) Height 20' max, if within 75' of a property line of a single-family zoning district that has a one-story building.
- 2) In residential zones, height may be limited to 15' or 25', and the number of stories may be limited to one or two stories, in "H overlay zones".
- 3) Height 30' max, if within 50' of a property with a general plan designation of 10 dwelling units per acre or less.

Of the 10 other nearby communities surveyed, Sunnyvale's height and story requirements in the R-3 Zoning District were in the lower third of the compared communities. These communities were selected based on their geographic proximity to Sunnyvale. An increase in the allowable height and number of stories in the R-3 Zoning District may be considered reasonable, when compared with similar surrounding communities.

2) R-3 Zoning District Projects in Recent Years

Height and Number of Stories for Approved Construction

Address	Project	Height (feet)	Height	Number of Stories	Dwelling Units/ Acre	Year Approved
1579 Sunnyvale Saratoga	4 townhomes	26'5"	30 feet and under	2	15.5	2002
391 S. Bernardo Ave.	6 townhomes	30'		2 + garage/ basement	18	2003
985 Bellomo Ave.	4 townhomes	30'		3	17.3	2002
775 S. Wolfe Rd.	20 apartments (never built)	30'		2	22.3	2001
992 Bellomo Ave.	4 townhomes	30'		3	17.4	2001
973 Bellomo Ave.	8 townhomes	30'		3	17.5	2000

Address	Project	Height (feet)	Height	Number of Stories	Dwelling Units/Acre	Year Approved
953 S. Wolfe Rd.	7 townhomes	32.5'	30 feet – 40 feet	3	19.6	2003
989 S. Wolfe Rd.	11 townhomes	32'9"		2.5		1998
975 S. Wolfe Rd.	6 townhomes	33.5		3		1996
759 Carmel Ave.	24 townhomes	34'		3	27.3	2003
612 E. Ahwanee Ave.	17 townhomes	34'8"		2.5	20.5	2004
545 E. Weddell Ave.	131 townhomes	35'		3	18.8	2004
637 E. Arques Ave.	54 townhomes	35'3"		3	18.8	2003
W. Washington & Mary Ave.	18 townhomes	36'3"		3	18	2003
624 E. Evelyn Ave.	47 townhomes	37'1"		3	18	2004
712 E. Evelyn Ave.	61 condos	38.6'		2.5	21.8	2003
1141 N. Fair Oaks	168 condos	48' - curb 43'8" - grade	above 40 feet	3	19.2	2003

Height- 65% (11 of the 17 projects) of the approved projects exceeded 30' in height:

30' and under - 6 projects (35%)
 30' – 40' - 10 projects (60%)
 above 40' - 1 project (5%)

All of the built projects that were approved for 30 feet or less in height contained 8 or fewer units. Projects that were approved for greater than 30 feet ranged from 7 – 168 units. To meet the 30 foot height requirement, those projects submerged a portion of the building below the previous grade. Building height is measured from the top of curb. The building height, if measured from the foundation to the peak would exceed 30 feet in these cases.

Stories - Almost 90% (15 of the 17 projects) were greater than 2 stories.

Density – 94% of the projects were approved below the 24 dwelling unit/ acre maximum allowed for the R-3 Zoning District, even when the additional height and number of stories were allowed.

Planned Development (PD) combining district and Special Development Permit

Approximately 90% of the recently approved projects deviated from the height and story requirements of the R-3 Zoning District through approval of a special Development Permit.

3) Possible alternatives to the existing height and story requirements in the R-3 Zoning District:

Increase the allowable height to 40 feet and 3 stories within the R-3 Zoning District.

Any application for a project in an R-3 Zoning District would be allowed a maximum of 40' in height and 3 stories without requiring a deviation from Municipal Code. If the applicants propose to exceed 40' and/or 3 stories, they would be required to gain approval through a Combining District Special Development Permit application.

Increase the allowable height to 35 feet and 3 stories within the R-3 Zoning Districts.

Any application for a project in an R-3 Zoning District would be allowed a maximum of 35' in height and 3 stories without requiring a deviation from Municipal Code. If the applicants propose to exceed 35' and/or 3 stories, they would be required to gain approval through a Combining District Special Development Permit application.

No change to the current ordinance

The existing height limitation of 30' and height limitation of 2 stories would remain the same. All applications proposing greater than 30' and 2 stories

would be required to gain approval through a Planned Development and/or Special Development Permit application.

4) Analysis of possible alternatives to the City's current R-3 Zoning District height and number of stories requirements:

Opportunities:

If future applications are similar to the applications in the past, increasing the allowable height to 40 feet and the allowable stories to 3 stories could eliminate the need for a height deviation in 93% (14 of 15) of the cases. Increasing the allowable height to 35 feet and the allowable stories to 3 stories would eliminate the need for a height deviation in 67% (10 of 15) of the cases. This increase would allow developers an opportunity to build housing in Sunnyvale with fewer constraints. Ultimately, the change may promote building more medium density, multi-family homes in Sunnyvale, while assisting the City in demonstrating its commitment to the housing goals. Other requested deviations including minimum lot size and setbacks may still necessitate a Special Development Permit application.

Examining the allowable height and story requirements in Sunnyvale's residential zoning districts, it appears that there is a gap in the allowable height and story requirements. The height limitation within the R-0, R-1, R-2 and R-3 Zoning Districts is 30' and 2 stories. In R-4 and R-5 Zoning Districts, the maximum height allowed increases to 55' and 4 stories. Allowing a 40' maximum height and 3 stories in the R-3 Zoning District would provide a niche in the zoning requirements that currently does not exist.

Constraints:

Increasing the maximum height and story requirement in R-3 Zoning Districts could result in taller, multi-family buildings encroaching on surrounding properties that are built with lower-scaled buildings. A primary concern could be that new taller buildings will not match in scale to nearby single-story, single-family homes, that are adjacent to the (up to) 40' buildings. However, the "75' Rule" would still protect single-family homeowners from taller buildings being built too close to their properties.

RELATIONSHIP TO THE GENERAL PLAN AND CURRENT GUIDELINES

General Plan Policy or Guideline	Consistency
Land Use and Transportation Element (LUTE) of the General Plan	
Policy C2.2: <i>Encourage the development of ownership housing to maintain a majority of housing in the city for ownership choice.</i>	Typically, ownership housing is larger (more square feet) than rental housing. Most of the R-3 zoned properties are developed with ownership housing (townhouse or condominiums). The developer would desire to build larger (and taller) housing units to appeal to the ownership market.
Housing and Community Revitalization Sub-Element of the General Plan	
Policy A.2: <i>All new residential developments should build at least 75 percent of permitted zoning density.</i>	Requiring that properties be built to at least 75% density furthers the pressure for the developer to build taller housing units.
Community Design Sub-Element of the General Plan	
<p>Policy C.5: <i>Ensure that buildings are appropriate to their context and designed to be compatible with surrounding properties and special districts.</i></p> <p>Action Statements</p> <p>C.5.c: <i>Avoid buildings that do not have a similar scale or height as surrounding properties, except at gateways or for landmark structures.</i></p> <p>C.5.f: <i>Encourage new construction to be designed so that it minimizes the impact on the privacy of adjoining residential properties.</i></p> <p>C.5.g: <i>Avoid tall buildings which substantially shade adjoining residential properties.</i></p>	<p>The “75’ Rule” will insure that (up to) 40’ multi-family structures are not built too close to one-story, single-family homes.</p> <p>Projects that do not meet the requirements of the “75’ Rule” would have to go to a public hearing for a Planned Development or Variance application. Design modifications would be required to minimize the impact of the taller buildings on any adjacent, one-story homes.</p>

Legislative Management Element	
<i>Policy 7.3B.3:</i> Prepare and update ordinances to reflect the current community issues and concerns in compliance with federal and state laws. <i>Action 7.3B.3b:</i> Consider changes to ordinance to reflect changes in community standards and state and federal laws.	This study is in response to a need identified by Planning Commission and staff to assist developers in achieving the allowable density in the R-3 Zoning District without the need to request a deviation to the Zoning standards.

ENVIRONMENTAL REVIEW

A Negative Declaration has been prepared in compliance with the California Environmental Quality Act provisions and City Guidelines. An initial study has determined that the proposed code modification would not create any significant environmental impacts.

FISCAL IMPACT

A change in the ordinance to allow increased height and allowable stories for new buildings located in the R-3 Zoning District may increase the value of the real estate in R-3 Zoning Districts. Residents have expressed concerns that single-family property values adjacent to R-3 sites could decrease. There is no evidence that modifications in height limit result in a measurable affect on adjacent property values.

PUBLIC CONTACT

Public contact was made through the posting of the Planning Commission agenda on the City's official notice bulletin board, posting of the agenda and report on the City's Web page, advertising in the *Sun* newspaper, and the availability of the report in the Library and the City Clerk's office. Approximately 1,195 notices were sent to apartment property owners and representatives of homeowners associations that are located within the R-3 Zoning District. Additional notices were sent to representatives of each neighborhood association within the City.

An announcement of the public outreach meeting was also included within these notices and in a display ad in the *Sun* newspaper. The meeting regarding this study issue was conducted by Planning Division staff on January 19,

2005. Various comments and concerns were received from residents and the interested public at the meeting including the following:

- the effect on the value of properties for neighboring single family homes
- proposed buildings under 40 feet may prevent neighborhood input
- developers are given too much influence to develop taller buildings
- less protection for neighboring properties
- requests and approvals for additional height deviations
- R-3 Density at certain locations are not appropriate

Staff notes that if a modification to the ordinance is passed, which enables an increase in maximum building height, design, shading, and privacy issues must still be considered on a project by project basis. A request that meets current or newly adjusted height requirements may require redesign based on site specific concerns. As currently recommended, a 20 foot height limit within 75 feet of neighboring single family homes would be preserved. Special consideration should be given when R-3 development lies in close proximity to R-0 and R-1 Zoned properties.

ALTERNATIVES

Recommend to the City Council:

1. Introduce an ordinance to amend the Municipal Code concerning an increase in the maximum height to 40' and an increase in the number of stories to 3, in R-3 Zoning Districts.
2. Introduce an ordinance to amend the Municipal Code concerning an increase in the maximum height to 35' and an increase in the number of stories to 3, in R-3 Zoning Districts.
3. Introduce an ordinance amend to the Municipal Code with modifications.
4. Direct staff to where additional research is required for future action.
5. Do not modify the Municipal Code.

RECOMMENDATION

Staff recommends alternative 1 to introduce ordinance to the Municipal Code concerning an increase in the maximum height to 40' and an increase in the number of stories to 3, in R-3 Zoning Districts. A modification to the height limit would allow for a more appropriate standard given the current density requirements, site conditions, and housing goals within the City. The 3-story limit will control total bulk appearance of the building and the 40-foot limit will afford the same flexibility when site grading may raise the buildings to some extent.

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Attachments

- A. Negative Declaration
- B. Draft Ordinance